



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

999 18TH STREET - SUITE 300

DENVER, CO 80202-2466

<http://www.epa.gov/region08>

September 20, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 777 9273

RETURN RECEIPT REQUESTED

Marvin L. Bishop, III
Registered Agent
Wyoming Conference Association
of Seventh-Day Adventists
136 S. Wolcott, Suite 304
Casper, Wyoming 82601

Re: Complaint and Notice of
Opportunity for Hearing
Docket No. **SDWA-08-2004-0050**

Dear Mr. Bishop:

Enclosed is an administrative "Complaint and Notice of Opportunity for Hearing" ("complaint") filed against the Wyoming Conference Association of Seventh-Day Adventists ("Respondent") regarding Mills Spring Camp public water system, under section 1414 of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the complaint that Respondent failed to comply with an Administrative Order on Consent ("AOC"), Docket No. SDWA-8-99-65, entered into September 29, 1999 between EPA and Respondent and an Administrative Order ("AO"), Docket No. SDWA-08-2002-36, issued September 19, 2002, under section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g). The violations are specifically set out in the complaint.

By law, Respondent has the right to request a hearing regarding the matters set forth in the complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If Respondent does not respond to this complaint within 30 days of receipt, a default order may be entered and the proposed civil penalty may be assessed without further proceedings. In Respondent's answer it may request a hearing. Respondent has the right to be represented by an attorney at any stage of these proceedings.

Whether or not Respondent requests a hearing, it may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. Respondent may appear at the conference and/or be represented by Respondent's counsel.



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EPA encourages all parties against whom it files a complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a final order by the Regional Judicial Officer, EPA Region 8. The issuance of a final order shall constitute a waiver of Respondent's right to request a hearing on any matter to which it has stipulated therein.

A request for an informal conference does not extend the 30-day period during which Respondent must submit a written answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneous with, the adjudicatory hearing.

If you have questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Kathelene Brainich, Environmental Protection Specialist, who can be reached at (303) 312-6481, or Michelle Jalazo, Enforcement Attorney, who can be reached at (303) 312-6921.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Larry Robinson, WYDEQ
Dr. Karl Musgrave, WYDOH
James L. Brauer, President, WY Conf. Assoc. 7-Day Adv.
Gerald Chapman, Mills Spring Camp



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
Phone 800-227-8917
<http://www.epa.gov/region08>

September 20, 2004

Ref: 8ENF-W

CERTIFIED MAIL 7003 2260 0001 7777 9280
RETURN RECEIPT REQUESTED

Kathleen Dixon, Chair
Natrona County Commissioners
200 North Center, Room 115
Casper, WY 82602

Re: Notice of Complaint and Notice of Opportunity for
Hearing Against
Wyoming Conference Association of Seventh-Day
Adventists (Mills Spring Camp)
Docket No. **SDWA-08-2004-0050**

Dear Ms. Dixon:

Pursuant to section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3(a)(2)(B), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

EPA is issuing a Complaint and Notice of Opportunity for Hearing ("complaint") under section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), to the Wyoming Conference Association of Seventh-Day Adventists ("Respondent") in Casper, Wyoming. Respondent is in violation of an Administrative Order on Consent ("AOC"), Docket No. SDWA-8-99-65, and an Administrative Order ("AO"), Docket No. SDWA-08-2002-36, which required compliance with the National Primary Drinking Water Regulations ("NPDWRs"). Respondent failed to monitor for total coliform bacteria and nitrate and failed to report the violations to EPA and provide public notice of the violations, in violation of the AOC and the AO.

A copy of this complaint is enclosed for your information. The complaint does not require any response or action by the County Commission.

If you have questions specific to the violations or penalty, the most knowledgeable people on my staff regarding this matter are Kathelene Brainich, Environmental Protection Specialist, who can be reached at (800) 227-8917 extension 6481 or Michelle Jalazo, Enforcement Attorney, who can be reached at (800) 227-8917 extension 6921.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF)	
)	
Wyoming Conference Association)	
of Seventh-Day Adventists)	
Casper, Wyoming)	Docket No. SDWA-08-2004-0050
)	
Respondent)	COMPLAINT AND NOTICE OF
)	OPPORTUNITY FOR HEARING
Proceedings under section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	
)	

COMPLAINT

This civil administrative Complaint and Notice of Opportunity for Hearing ("complaint") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by section 1414(g)(3) of the Safe Drinking Water Act, as amended ("SDWA"), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty, not exceeding \$25,000, against any person who violates, or fails or refuses to comply with, an order issued under section 1414(g)(1) of the SDWA.

Complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action. This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. part 22. ("Consolidated Rules of Practice")(Complainant's Attachment 1).

GENERAL ALLEGATIONS

The following general allegations apply to each count of this complaint:

1. Wyoming Conference Association of Seventh-Day Adventists ("Respondent") is a corporation under the laws of the State of Wyoming as of August 1945 and therefore a "person" within the meaning of section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.
2. Respondent owns and/or operates a system, the Mills Spring Camp ("System"), located in Natrona County, Wyoming, for the provision to the public of piped water for human consumption.
3. The System regularly serves an average of at least 25 individuals daily at least 60 days out of the year and is therefore a "public water system" within the meaning of section 1401(4) of the SDWA, 42 U.S.C. § 300f(4), and a "non-community water system" within the meaning of section 1401(16) of the SDWA, 42 U.S.C. § 300f(16) and 40 C.F.R. § 141.2.
4. Respondent owns and/or operates a public water system and is therefore a "supplier of water" within the meaning of section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondent is therefore subject to the requirements of part B of the SDWA, 42 U.S.C. § 300g et seq., and its implementing regulations, 40 C.F.R. part 141.
5. The source of the System's water is a well and a spring. The System serves an average of 200 persons daily through 7 service connections from May through October.

6. Between April 23, 1999 and February 10, 2004, EPA sent twelve (12) informal enforcement letters to Respondent notifying Respondent of NPDWR violations, notifying Respondent that repeated violations may result in a formal enforcement action and requesting Respondent provide public notice for the NPDWR violations.
7. On September 29, 1999, EPA entered into an Administrative Order on Consent ("AOC") (Docket No. SDWA-8-99-65) with the Respondent pursuant to section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1), citing violations of the National Primary Drinking Water Regulations ("NPDWRs"). A copy of the AOC is attached to this complaint and incorporated herein (Complainant's Attachment 2).
8. On September 19, 2002, EPA issued an Administrative Order ("AO") (Docket No. SDWA-08-2002-36) to the Respondent pursuant to section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1), citing additional violations of the National Primary Drinking Water Regulations ("NPDWRs"). A copy of the AO is attached to this complaint and incorporated herein (Complainant's Attachment 3).
9. The AOC and the AO required the Respondent, among other things, to achieve compliance with the NPDWRs, 40 C.F.R. part 141, in accordance with the schedules set forth in the AOC and the AO.
10. On February 13, 2003, EPA sent Respondent a "Violation of Administrative Order on Consent" letter citing Respondent's failure to comply with the AOC, the SDWA and the NPDWRs. (Complainant's Attachment 4).

SPECIFIC ALLEGATIONS

Count I
Failure to Monitor for Total Coliform Bacteria

9. 40 C.F.R. § 141.21(a) requires non-community public water systems to monitor their water at least once per quarter to determine compliance with the maximum contaminant level ("MCL") for total coliform bacteria as stated in 40 C.F.R. § 141.63.
10. Page 4 of the AOC, in paragraph 1 of the "Order" section, required Respondent to comply with the requirements of 40 C.F.R. § 141.21(a)(3)(i) to perform quarterly bacteriological monitoring to comply with the MCLs s stated in 40 C.F.R. § 141.63(a)(2) and required Respondent to report analytical results to EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a)
11. Respondent failed to monitor for bacteriological quality the 3rd quarter (July-September) of 2000 and the 2nd (April-June) and 3rd (July-September) of 2003, in violation of the AOC and 40 C.F.R. § 141.21(a)(3)(i).

Count II
Failure to Monitor for Nitrate

12. 40 C.F.R. § 141.23(d) requires public water systems to monitor their water annually to determine compliance with the nitrate MCL as stated in 40 C.F.R. § 141.62.
13. Pages 4 and 5 of the AO, in paragraph 1 of the "Order" section, required Respondent to comply with the requirements of 40 C.F.R. § 141.23(d) to perform annual nitrate monitoring and required Respondent to report analytical results to

EPA within the first 10 days following the month in which sample results are received, as required by 40 C.F.R. § 141.31(a).

14. Respondent failed to monitor for nitrate in 2003, in violation of the AO and 40 C.F.R. § 141.23(d).

Count III
Failure to Notify the Public
of NPDWRs Violations

15. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any NPDWR violations, including violations of monitoring requirements, and testing procedures found in 40 C.F.R. part 141.
16. Pages 5 and 6, paragraph 2 of the "Order" section of the AO required Respondent, within one year of the effective date of the AO, to provide a public notice for the violations specified in the AO to return to compliance with 40 C.F.R. §§ 141.201, 141.204 and 141.205. The AO specified acceptable methods for Respondent to give the public notice. The AO also required Respondent to comply with the publication notification requirements at 40 C.F.R. § 141.201 et seq. following any future NPDWR violation and submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).
17. Respondent failed to provide notice to the public of the nitrate violations identified in the AO and violations identified in the Counts I, II and III set forth above and failed to submit a copy of the public notice to EPA, in violation of the AO , 40 C.F.R. §§ 141.201 and 141.31(d).

Count IV
Failure to Report Noncompliance
with NPDWRs to EPA

18. 40 C.F.R. § 141.31(b) requires that, except where a different period is specified by 40 C.F.R. part 141, public water systems shall report any failure to comply with the NPDWRs (40 C.F.R. part 141) to EPA within 48 hours.
19. 40 C.F.R. § 141.21(g)(2) requires public water system that have failed to comply with a coliform monitoring requirement under 40 C.F.R. § 141.21 to report the violation to EPA within 10 days.
20. Page 5 of the AOC in paragraph 4 of the "Order" section, and page 6 of the AO in paragraph 3 of the "Order" section, required Respondent to comply with 40 C.F.R. § 141.31(b) by reporting to EPA any failure to comply with any NPDWR (40 C.F.R. part 141) within 48 hours.
21. Page 4 of the AOC in paragraph 2 of the "Order" section required Respondent to comply with 40 C.F.R. § 141.21(g)(2) by reporting any failure to comply with coliform monitoring requirements under 40 C.F.R. § 141.21 to EPA within ten days.
22. Respondent failed to report to EPA the instances of noncompliance detailed in Counts I, II and III set forth above, in violation of the AOC, the AO, 40 C.F.R. §§ 141.31(b) and 141.21(g)(2).

PROPOSED ADMINISTRATIVE CIVIL PENALTY

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$25,000¹ for violation of an administrative order issued under section 1414(g)(1) of the SDWA. The proposed penalty has been determined in

¹In an action for violations occurring on or after March 15, 2004, a penalty of up to \$27,500 is authorized. See 69 Fed. Reg. 7121, February 13, 2004.

accordance with section 1414 of the SDWA, 42 U.S.C. § 300g-3. For purposes of calculating a rational and consistent penalty proposed to be assessed, EPA has taken into account the seriousness of the violation, the population at risk, and other appropriate factors, including Respondent's degree of willfulness and/or negligence, history of noncompliance, if any, and ability to pay, as known to Complainant at this time. Based on the above factors, EPA proposes to assess an administrative civil penalty of \$2,740 against Respondent for violations of the AOC and the AO.

OPPORTUNITY TO REQUEST A HEARING

As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), the Respondent has the right to request a public hearing on any material fact alleged in this complaint or on the appropriateness of the proposed penalty or to assert that it is entitled to judgment as a matter of law.

If Respondent wishes to request a hearing, Respondent must file a written answer in accordance with 40 C.F.R. §§ 22.15 and 22.42 within thirty (30) calendar days after this complaint is served. If this complaint is served by mail, Respondent has an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.7(c).

If Respondent requests a hearing in its answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. However, Respondent has the right under the SDWA to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551, et seq. ("APA"). To exercise this right, Respondent must include in its answer a specific request for a hearing on the record in accordance with 5 U.S.C. § 554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40

C.F.R. § 22.42.) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

Respondent's answer must be in writing. An original and one copy of the answer must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Region 8 Hearing Clerk (8RC)
U.S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466

FAILURE TO FILE AN ANSWER

To avoid entry of a default order against Respondent pursuant to 40 C.F.R. § 22.17 for the full amount of the penalty proposed in this complaint, Respondent must file a written answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this complaint. Respondent's answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this complaint with regard to which you have any knowledge. Respondent's answer should state (1) the circumstances or arguments which are alleged to constitute grounds of defense, (2) a concise statement of the facts which Respondent intends to place at issue in the hearing, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in this complaint shall constitute an admission of the allegation.

SETTLEMENT CONFERENCE

EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation, in a settlement

conference does not extend the period for filing an answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. part 22. If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Presiding Officer. A request for a settlement conference, or any questions that Respondent may have regarding this complaint, should be directed to the attorney listed below.

Dated this 15TH day of September, 2004.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Complainant.

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

SIGNED

Michelle Jalazo, Enforcement Attorney
Legal Enforcement Program
Office of Enforcement, Compliance
and Environmental Justice
U.S. EPA Region 8
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Telephone Number: (303) 312-6921
Facsimile Number: (303) 312-6953

IN THE MATTER OF:

WYOMING CONFERENCE ASSOCIATION OF
SEVENTH-DAY ADVENTISTS (MILLS SPRING
CAMP)

DOCKET NUMBER:

SDWA-08-2004-0050

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the original and one copy of the COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING with Attachments 1 through 4 were hand-carried to the Regional Hearing Clerk, EPA, Region 8, 999 18th Street, Denver, Colorado, and that a true copy of the same was delivered as follows:

Via CERTIFIED MAIL/RETURN RECEIPT REQUESTED to:

Marvin L. Bishop, III
Registered Agent
Wyoming Conference Association
of Seventh-Day Adventists
136 S. Wolcott, Ste. 304
Casper, Wyoming 82601

and

Kathleen Dixon, Chair
Natrona County Commissioners
200 North Center, Room 115
Casper, WY 82601

Date: 9/20/04

By: SIGNED
Judith McTernan

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK**

**THIS DOCUMENT WAS FILED IN THE RHC'S
OFFICE ON SEPTEMBER 20, 2004.**